

PUBLIC SERVICE COMMISSION
STATE OF MONTANA

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Feb. 16, 2015

Transportation Committee
House of Representatives
State Capitol
Helena, MT 59620

Dear Representatives:

I write to you today to voice the Public Service Commission's opposition to House Bill 428, which makes it unlawful for Transportation Network Carriers (TNCs) like Uber, Lyft, and Sidecar to operate within the state.

New Section 4(1)(b) prevents TNCs from operating within "the service territory serviced by a Class B motor carrier." However, every square inch of the State of Montana falls within the service territory of a Class B motor carrier. In other words, the bill would make it unlawful for TNCs to operate anywhere in the state. If the bill moves forward, the PSC urges you to delete this subsection in its entirety.

Even while declaring the entire TNC industry to be unlawful, the bill goes on to establish a superfluous regulation over the industry, codifying many requirements that do not exist for other regulated motor carriers. The PSC cannot support unnecessary legal impositions on an industry whose breakthrough technology has made passenger service more convenient, more cost-effective, and safer.

The PSC is given broad authority to regulate motor carriers and their relationship with passengers. If and when safety concerns arise, the PSC can address them as it sees fit, without statutory enactments that will inevitably prevent innovation and service to the public.

In addition to these fundamental objections, the PSC Staff has identified a number of technical amendments that appear as Attachment A to this letter.

The PSC thanks you for your consideration, and questions about our position can be answered by Laura Farkas, who is appearing before your committee today, or by telephoning or writing me at the above-listed phone number and address.

Sincerely,

A handwritten signature in black ink, appearing to read "Travis Kavulla".

Travis Kavulla

Attachment A

HB 428 PSC Staff Identified Technical Issues

Section 3 (Definitions), subsection (5), on page 6:

The definition of "transportation network company rider" does not contemplate riders or passengers other than the one person who has used the digital network or mobile app to obtain TNC services.

Section 4 (Regulation of TNCs – rulemaking), subsection (1)(b), on page 6:

The prohibition on a TNC providing services "in a service territory serviced by a Class B motor carrier" effectively renders the bill inoperable. There are PSC-regulated Class B motor carriers with statewide authority.

Section 4, subsection (2), on page 6:

This provision requires that a TNC must comply with "applicable insurance requirements" AND have an insurance policy that provides coverage of \$1 million per occurrence. Staff is not sure what is meant by "applicable insurance requirements," but if it means the PSC's existing insurance minimums for passenger motor carriers, the applicable minimum is significantly less than \$1 million per occurrence. What is the point of requiring the PSC's minimum be met, plus securing the \$1 million in insurance coverage?

Section 6 (Operational requirements), subsection (5), on page 8:

This provision prohibits a TNC driver from working for more than 12 consecutive hours, but does not state how long the break must be before the TNC driver may start to work again. PSC could probably address this in rulemaking.

Section 6, subsection (7), on page 8:

Staff recommends that the first sentence of this provision be amended as follows:

A transportation network company shall ~~conduct or~~ have a certified mechanic conduct a safety inspection of a prospective driver's vehicle before it is approved for use as a personal vehicle and shall have periodic inspections of personal vehicles, at intervals of at least one inspection a year.

Section 8 (Authority), subsection (2), on page 10:

This provision prohibits local governments from imposing taxes or fees on TNC services. Staff believes that at least some local airports in Montana, which are subdivisions of local governments, assess fees on taxi and shuttles who provide service at airports. This provision would not allow airports to assess similar fees on TNCs.

Section 10 (Effective date), on page 10:

The bill is effective upon passage and approval, but it would not be possible for the PSC to complete the rule making required by the bill prior to the effective date. HB 428 requires PSC rulemaking to: establish procedures and forms for processing and evaluating initial and renewal permit applications; ensure TNCs and TNC drivers meet insurance requirements; set up penalty/revocation procedures; and determine driver requirements.